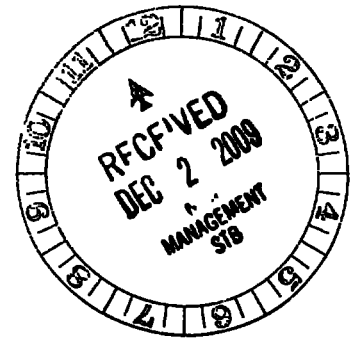


226102

LAW OFFICES  
**JOHN D. HEFFNER, PLLC**  
1750 K STREET, N.W.  
SUITE 200  
WASHINGTON, D.C. 20006  
PH: (202) 296-3333  
FAX: (202) 296-3939



December 1, 2009

**BY HAND**

Cynthia T. Brown  
Chief, Section of Administration  
Office of Proceedings  
Surface Transportation Board  
395 E Street, S.W.  
Washington, D.C. 20423

**RE: STB Finance Docket No. 35250  
LRY, LLC D.B.A. Lake Railway-Lease and  
Operation Exemption-Line of Union Pacific  
Railroad Company**

**ENTERED  
Office of Proceedings**

**DEC 2 - 2009**

**Part of  
Public Record**

**STB Finance Docket No. 35250, Sub. No. 1  
LRY, LLC D.B.A. Lake Railway-Lease and  
Operation Exemption-Rail Line in Lake  
County, Oregon**

Dear Ms. Brown:

Enclosed for filing in the above captioned proceeding are an original and ten copies of LRY LLC's Verified Notices of pursuant to 49 CFR 1150.31 (c), dated December 1, 2009. A check in the amount of \$1,800.00, representing the appropriate fee for this filing pursuant to 49 CFR 1002.2 (f) (11) (ii). A 3.5-inch computer diskette containing the text of the Notice and the *Federal Register* caption summary in MS Word 2003 format will be supplied under separate cover.

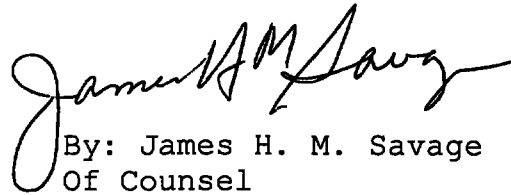
The Office of Proceedings has advised Petitioner's counsel that only one filing fee of \$1,800.00 need be tendered inasmuch

as these two exemptions involve related proceedings under 49 CFR 1002.2(d).

One extra copy of each Notice and this letter are also enclosed. Please deliver one date-stamped copy of those items to my representative.

Please contact me if you have any questions regarding this filing. On behalf of our client, thank you for your time and consideration.

Respectfully submitted,  
John D. Heffner, PLLC

  
By: James H. M. Savage  
Of Counsel

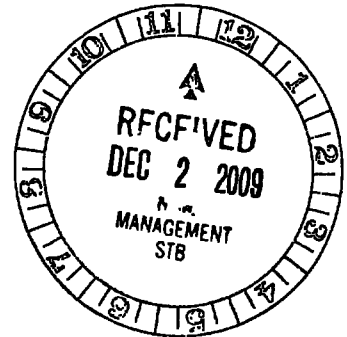
Enc.

cc: Mack H. Shumate (w/enc. via electronic mail)  
Thomas McFarland (w/enc. via electronic mail)  
James Bailey (w/enc. via electronic mail)

226102  
**ORIGINAL**

ENTERED  
Office of Proceedings  
DEC 2 - 2009  
Part of  
Public Record

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**



**STB FINANCE DOCKET NO. 35250**

**LRV, LLC D.B.A. LAKE RAILWAY  
-- LEASE AND OPERATION EXEMPTION --  
LINE OF UNION PACIFIC RAILROAD COMPANY**

**FILED**

**DEC 2 - 2009**

**VERIFIED NOTICE OF EXEMPTION**

**SURFACE  
TRANSPORTATION BOARD**

**FOR LEASE AND OPERATION OF RAIL LINE**

**PURSUANT TO 49 U.S.C. 10901 and 49 CFR 1150.31**

Submitted By:

James H. M. Savage  
John D. Heffner  
John D. Heffner, PLLC  
1750 K Street, N.W.  
Suite 200  
Washington, D.C. 20006  
(202) 296-3333

Counsel for Applicant  
LRV, LLC

**FEE RECEIVED**  
DEC 2 - 2009  
**SURFACE  
TRANSPORTATION BOARD**

Dated: December 1, 2009

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

**STB FINANCE DOCKET NO. 35250**

**LRV, LLC D.B.A. LAKE RAILWAY  
-- LEASE AND OPERATION EXEMPTION --  
LINE OF UNION PACIFIC RAILROAD COMPANY**

**VERIFIED NOTICE OF EXEMPTION  
FOR LEASE AND OPERATION OF RAIL LINE  
PURSUANT TO 49 U.S.C. 10901 and 49 CFR 1150.31**

**INFORMATION REQUIRED BY 49 CFR 1150.33**

Pursuant to 49 CFR 1150.31, et seq., LRV, LLC D.B.A. Lake Railway ("LRV"), a noncarrier, hereby files this Verified Notice of Exemption to lease and operate rail property owned by Union Pacific Railroad Company ("UPRR") known as part of the Modoc Subdivision, between the connection with UPRR at Milepost 506.10 near Perez, CA and Milepost 445.60 near MacArthur, CA, as well as rail property owned by UPRR known as part of the Lakeview Branch between Milepost 456.89 and Milepost 458.60 at Alturas, CA (collectively, the "Line").

The subject Line and other property was previously leased to Modoc Railway and Land Company ("MR&L"), a non-carrier, under a lease agreement between UPRR and MR&L dated as of November 1, 2005 (the "MR&L Lease"). Board permission for the MR&L Lease was obtained pursuant to a Verified Notice of Exemption filed with the Board in Finance Docket No. 34769 on October 24, 2005 under 49 CFR 1150, Subpart D authorizing MR&L to acquire and

operate the Line under the MR&L Lease with UPRR. The subject Line was also previously operated by Modoc Northern Railroad Company ("MNRR") as permitted by the Board pursuant to a Verified Notice of Exemption filed with the Board in Finance Docket No. 34768 on October 24, 2005 under 49 CFR 1150.31 authorizing MNRR to acquire rights to operate and maintain the Line. In accordance with the Verified Notice of Exemption filed with the Board in F.D. No. 34722 on October 24, 2005 and related filings, it is verified that MR&L acquired the Line from UPRR pursuant to the MR&L Lease and MNRR had the obligation to operate and maintain the Line during the term of the MR&L Lease and that MR&L controls MNRR.

UPRR has terminated the MR&L Lease and MNRR's operations under the MR&L Lease in accordance with the terms of the MR&L Lease (the "Termination") and UPRR plans to file for adverse discontinuance authority for MNRR from the Board.<sup>1</sup> Additionally, on March 24, 2009 UPRR filed suit in the United States District Court for the District of Utah, Case No. 1:2009-cv-00039, against MNRR for breach of contract related to UPRR's operations on the Line and other property. In accordance with the terms of the MR&L Lease as authorized by the Board, upon the Termination, UPRR reentered and took possession of the Line and began

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<sup>1</sup> Under the terms of the MR&L Lease, UPRR is authorized to seek discontinuance authority in both MR&L's and MNRR's names.

railroad freight operations on the Line. UP has resumed operations in its own name over the Line until this notice becomes effective and LRY can initiate service over the Line in its own right. Based upon projected revenues, LRY expects to become a Class III rail carrier upon consummation of the proposed transaction.

This Notice is related to Finance Docket No. 35250, Sub. No. 1, LRY, LLC D.B.A. Lake Railway-Lease and Operation Exemption-Rail Line in Lake County, OR, in which LRY is concurrently seeking a lease and operation exemption for rail property owned by Lake County, OR ("Lake County"), known as part of the Lakeview Branch from Milepost 458.60 at Alturas, CA to Milepost 512.30 at Lakeview, OR, a distance of 53.70 miles. LRY will replace MNRR as the operator on that line once its notice becomes effective.<sup>2</sup>

Name and Address of Applicant

**49 CFR 1150.33(a)**

LRY, LLC  
499 Railex Road  
Burbank, WA 99323

---

<sup>2</sup> Lake County has common carrier authority to operate its railroad pursuant to a Modified Certificate of Public Convenience and Necessity. See, Finance Docket No. FD-33581, Lake County, Railroad-Modified Rail Certificate (STB served Apr. 24, 1998). Lake County is taking steps to evict MNRR from its rail line and on May 15, 2009 filed an Adverse Discontinuance application with the Board in Docket No. AB-1439, Lake County, Oregon-Adverse Discontinuance of Rail Service-Modoc Railway and Land Company, LLC and Modoc Northern Railroad Company. In the interim, Lake County will resume providing service over its line in its own right utilizing the services of LRY as its agent operator.

Applicant's Representative

49 CFR 1150.33(b)

James H.M. Savage  
John D. Heffner  
John D. Heffner, PLLC  
1750 K Street, N.W.  
Suite 200  
Washington, D.C. 20006  
(202) 296-3333

Statement of Agreements

49 CFR 1150.33(c)

LRY expects to execute an agreement shortly with UPRR to lease and operate rail property known as part of the Modoc Subdivision, between the connection with the UPRR at Milepost 506.10 near Perez, CA and Milepost 445.60 near MacArthur, CA, a distance of 60.50 miles, as well as rail property known as part of the Lakeview Branch from Milepost 456.89 to Milepost 458.60 at Alturas, CA, a distance of 1.71 miles. The total length of the trackage being leased is 62.21 miles. Certain minimal portions of the Alturas Yard will not be covered by the lease from UPRR to LRY.

In a related proceeding, Finance Docket No. 35250, Sub. No. 1, LRY, LLC D.B.A. Lake Railway-Lease and Operation Exemption-Rail Line in Lake County, OR, LRY expects to execute an agreement shortly with Lake County to lease and operate rail property owned by Lake County, known as part of the Lakeview Branch between Milepost 458.60 at Alturas, CA and Milepost 512.30 at Lakeview, OR, a distance of 53.70 miles. As discussed above, MNRR has been leasing and operating this line of

railroad. Lake County has terminated MNNR's lease and operating agreement and will operate its line until that exemption takes effect.

Operator of the Property 49 CFR 1150.33(d)

In all cases anticipated by this Notice, and as described in the transaction summary provided below, LRY will hold itself out to provide common carrier rail freight service over the subject rail property.

Brief Summary of Transaction 49 CFR 1150.33(e)

This exemption involves the lease and operation by LRY, a non-carrier which will become a Class III short line railroad carrier upon this exemption taking effect, of certain rail property owned by UPRR and which had previously been leased to and operated by MNRR.

(1) Name and address of incumbent railroad

Union Pacific Railroad Company  
1400 Douglas Street, MS 1350  
Omaha, NE 68179

(2) Proposed time schedule for consummation of transaction.

LRY plans to commence operations on or after December 31, 2009, more than thirty days after the filing of this Notice.

(3) Mileposts of the subject property. LRY intends to lease and operate rail property owned by UPRR as part of the Modoc Subdivision, between the connection with the UPRR at Milepost 506.10 near Perez, CA and Milepost 445.60 near



MacArthur, CA, as well as rail property owned by UPRR known as part of the Lakeview Branch from Milepost 456.89 to Milepost 458.60 at Alturas, CA.

(4) Total Route Miles. LRY intends to lease and operate rail property comprising a total of 62.21 route miles.

Map of Area to be Served

**49 CFR 1150.33(f)**

A map clearly indicating the area to be served, including origins, termini, stations, cities, counties, and states, is attached as Exhibit A.

Certificate of Carrier Classification

**49 CFR 1150.33(g)**

A certificate complying with the provisions of 49 CFR 1150.33(g) is attached as Exhibit B to this notice.

Transactions Imposing Interchange Commitments

**49 CFR 1150.33(h)**

Not applicable. The subject rail line connects only with Lake County's rail line on the east end and with UPRR on the west end at Perez.

Statement Regarding Railroad Police

Authority is not being sought to establish a railroad police force.

Disclosure of Intent to Transport Waste

LRY does not presently intend to provide facilities for the collecting, sorting, loading, unloading, transferring, or

**EXHIBIT C - CAPTION SUMMARY**

**SURFACE TRANSPORTATION BOARD**

***Notice of Exemption***

**FINANCE DOCKET NO. 35250**

**LRY, LLC D.B.A. LAKE RAILWAY  
- LEASE AND OPERATION EXEMPTION -  
LINE OF UNION PACIFIC RAILROAD COMPANY**

LRY, LLC D.B.A. Lake Railway ("LRY") has filed a Verified Notice of Exemption under 49 C.F.R. 1150.31 to lease and operate rail property owned by Union Pacific Railroad Company ("UPRR") known as part of the Modoc Subdivision, between the connection with the UPRR at Milepost 506.10 near Perez, CA and Milepost 445.60 near MacArthur, CA, a distance of as well as rail property owned by UPRR known as part of the Lakeview Branch between Milepost 456.89 and Milepost 458.60 at Alturas, CA. The total distance of the subject rail property is 62.21 miles.

In a related proceeding under Finance Docket No. 35250, Sub. No. 1, LRY, LLC D.B.A. Lake Railway-Lease and

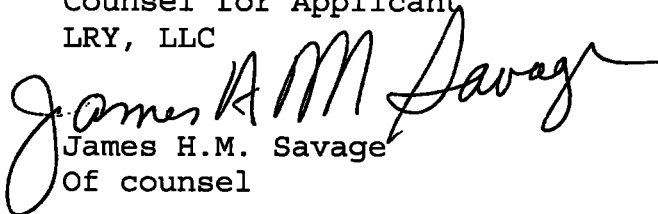
Under 49 CFR 1105.6(c)(2), the proposed transaction is exempt from environmental reporting requirements. The proposed transaction will not result in significant changes in carrier operations, i.e., changes exceeding the thresholds established in 1105.7(e)(4) or (5).

In addition, this transaction is exempt from historic review under 1105.8(b)(1). The proposed lease is for the purpose of continued rail operations, further Board approval would be required to abandon or discontinue any service, and there are no plans to dispose of or alter properties subject to Board jurisdiction that are fifty years old or older.

Respectfully submitted,  
John D. Heffner, PLLC

John D. Heffner  
1750 K Street, N.W.  
Suite 200  
Washington, D.C. 20006  
(202) 296-3333

Counsel for Applicant  
LRY, LLC

  
James H.M. Savage  
Of counsel

Dated: December 1, 2009

# EXHIBIT A

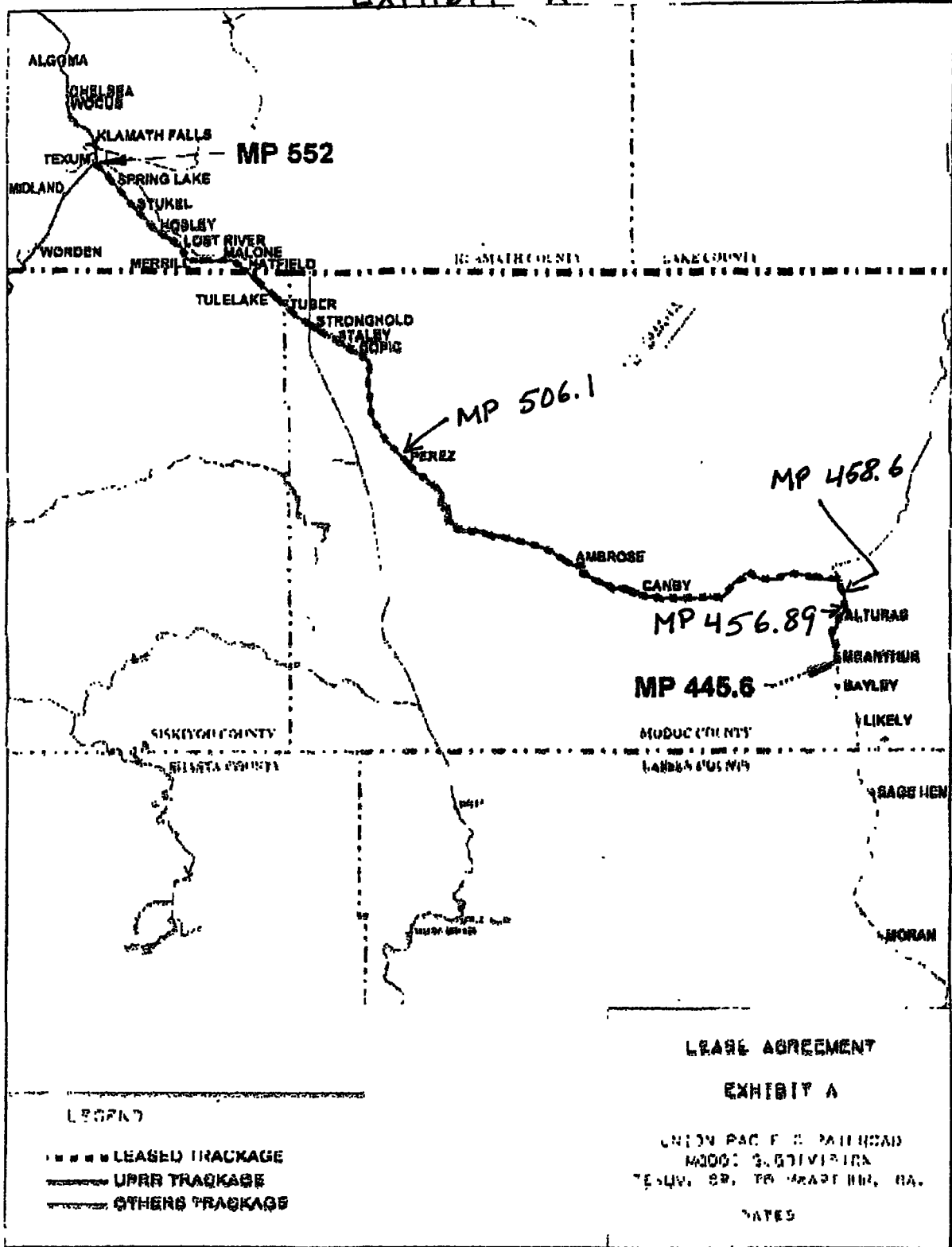


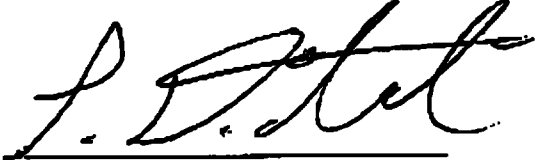
Exhibit B

**Certification**

I, Paul Didelius, certify that I am the owner of LRY, LLC d/b/a Lake Railway ("LRY") and that applicant's projected revenues do not exceed those that would qualify it as a Class III carrier.

I further certify that the foregoing statements made by me are true, and that I am aware that if any of the foregoing statements made by me be willfully false, I am subject to punishment.

Dated: December 1, 2009

  
Paul Didelius

**EXHIBIT C - CAPTION SUMMARY**

**SURFACE TRANSPORTATION BOARD**

***Notice of Exemption***

**FINANCE DOCKET NO. 35250**

**LRY, LLC D.B.A. LAKE RAILWAY  
- LEASE AND OPERATION EXEMPTION -  
LINE OF UNION PACIFIC RAILROAD COMPANY**

LRY, LLC D.B.A. Lake Railway ("LRY") has filed a Verified Notice of Exemption under 49 C.F.R. 1150.31 to lease and operate rail property owned by Union Pacific Railroad Company ("UPRR") known as part of the Modoc Subdivision, between the connection with the UPRR at Milepost 506.10 near Perez, CA and Milepost 445.60 near MacArthur, CA, a distance of as well as rail property owned by UPRR known as part of the Lakeview Branch between Milepost 456.89 and Milepost 458.60 at Alturas, CA. The total distance of the subject rail property is 62.21 miles.

In a related proceeding under Finance Docket No. 35250, Sub. No. 1, LRY, LLC D.B.A. Lake Railway-Lease and

Operation Exemption-Rail Line in Lake County, Oregon,  
Petitioner is concurrently filing a Verified Notice of  
Exemption to lease and operate rail property owned by Lake  
County, OR ("Lake County"), known as part of the Lakeview  
Branch between Milepost 458.60 at Alturas, CA and Milepost  
512.30 at Lakeview, OR, a distance of 53.70 miles.

Comments must be filed with the Board and served on  
James H. M. Savage, John D. Heffner, PLLC 1750 K Street,  
N.W. - Suite 200, Washington, DC 20006. The telephone  
number of Petitioner's representative is (202) 296-3333.

This notice is filed under 49 CFR 1150.31. If the  
notice contains false or misleading information, the  
exemption is void *ab initio*. Petitions to revoke the  
exemption under 49 U.S.C. 10502(d) may be filed at any  
time. The filing of a petition to revoke will not stay the  
transaction.

Dated: \_\_\_\_\_

By the Board

Cynthia T. Brown

Chief, Section of Proceedings

(Seal)

202-296-  
3439

2 pages

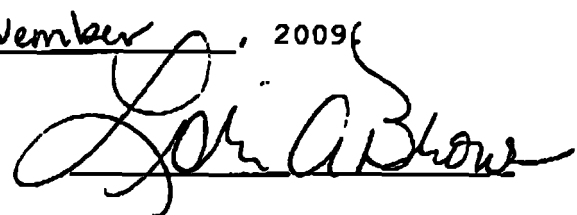
VERIFICATION

STATE OF WASHINGTON     )  
                                      )     SS  
COUNTY OF WALLA WALLA )

I, Paul Didelius, being duly sworn according to law, hereby depose and state that I am authorized to make this Verification, that I have read the foregoing document, and that I know the facts asserted therein are true and accurate as stated, to the best of my knowledge, information and belief.

  
Paul Didelius

Subscribed and sworn to before me, a Notary Public, in and for the City of ~~Burbank~~ <sup>Walla Walla wa</sup> and County of Walla Walla, in the State of Washington, this 30th day of November, 2009.



My Commission expires:

Dec 15, 2009

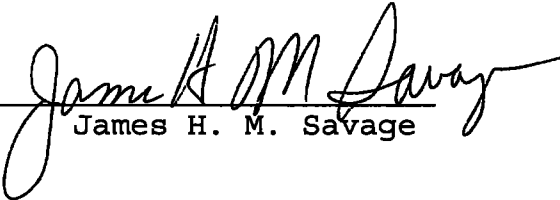
Notary





CERTIFICATION OF SERVICE

I, James H. M. Savage, an attorney-at-law of the District of Columbia, certify that I have served this day by electronic mail a true copy of the within pleading upon Mack H. Shumate, counsel for Union Pacific Railroad Company, and upon Thomas McFarland and James Bailey, counsel for Lake County, OR.

  
James H. M. Savage

Dated: December 1, 2009